William R. Samuels
bill@wrsamuelslaw.com
Iva Rukelj
iva@wrsamuelslaw.com
W.R. Samuels Law PLLC
280 Madison Avenue, Suite 600
New York, New York 10016
Telephone: (212) 206-9399
Facsimile: (917) 522-9615

Attorneys for Plaintiff 45 Riots, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

45 RIOTS, INC.,	:	Case No. _______________
Plaintiff(s),	:	
against	:	**COMPLAINT**
TROY CURTIS ENTERTAINMENT, LLC, TROY CURTIS	:	JURY TRIAL DEMANDED
Defendants(s).	:	

---X

Plaintiff 45 Riots, Inc. ("Plaintiff" or "45 Riots"), by and through its undersigned counsel, for its Complaint against defendants Troy Curtis Entertainment, LLC ("TCE") and Troy Curtis ("Curtis", and together with TCE collectively, "Defendants") alleges, on knowledge as to its own actions, and otherwise upon information and belief, as follows:

NATURE OF THE ACTION

1. This is a civil action for: copyright infringement of federally registered copyrights in violation of the Copyright Act of I976, 17 U.S.C. §§ IOI et seq., and related state and common law claims. ("Action"). Plaintiff seeks injunctive relief, an accounting, compensatory damages, and/or statutory damages, treble damages, attorney's fees and costs, and such other relief as the Court deems proper.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to 17 U.S.C. § 101 *et seq.*, and 28 U.S.C. §§ 1331, and 1338.

3. Personal jurisdiction exists over Defendants because upon information and belief Defendants conduct business in New York and in this judicial district or otherwise avails itself of the privileges and protections of the laws of the State of New York, such that this Court's assertion of jurisdiction over Defendants does not offend traditional notions of fair play and due process.

VENUE

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 139l(a), 139l(b), and 1400(a), because a substantial part of the events or omissions giving rise to the claims occurred in this District, and because the Defendants is subject to personal jurisdiction and may be found in this District.

PARTIES

5. Plaintiff 45 Riots Inc. is a New York corporation with a principal place of business located at 149 Madison Avenue, 11th Floor, New York, New York 10016.

6. Upon information and belief, Defendant Troy Curtis Entertainment, LLC is a New York limited liability company with a principal place of business located at 65 West 55th Street, Suite 303, New York, NY 10019.

7. Upon information and belief, Defendant Troy Curtis is an individual who is the sole owner of Soup for You and resides at 65 West 55th Street, Suite 303, New York, NY 10019.

FACTUAL BACKGROUND

45 Riots and Its Well-Known Services

7. 45 Riots specializes in organizing a variety of entertainment events and live music performances in the Tri-State area and around the United States.

8. Over the last five (5) years and three (3) months, 45 Riots organized more than 600 different events, including weddings, private parties, corporate gala events, concerts, and creative music and media production.

9. 45 Riots is especially known for innovative and on-time performances, and a strong customer support team.

10. Since 2011, 45 Riots has risen to the top in its industry, recognized for its superior and well-known musicians. 45 Riots provides its customers full services in live music entertainment, including customized musical ensemble performances, sound, lighting, and other production elements, DJ services, and event preparation expertise and client consultation.

11. 45 Riots has been featured in editorial articles in publications such as New York Magazine, The New York Times, The Huffington Post, Style Me Pretty, Wedding Salon, Sophisticated Weddings, Wedding Crashers, Brooklyn Betrothed, WeDoNYC, Coastal Living, Cottage Hill, Carats & Cake, and on the air on ABC, CBS, NBC, and more. 45 Riots has won "Best of Weddings" and the "Couple's Choice" awards on the Knot and WeddingWire, respectively,

from 2015 through 2017, as well as formal recognition from the Event Planners Association as a top industry vendor.

12. Through its continued efforts and long-standing experience, 45 Riots developed specific language for its promotional materials and client communications tested for efficiency on its many customers, as well as developing a pricing structure specific to the business needs and outgoing expenses unique to 45 Riots alone, based on months and years of research and continuous improvements, namely the 45 Riots Ensemble and Pricing Offer Template (the "Work").

13. 45 Riots created and protected the Work under the U.S. Copyright Registration No. TX 8-275-451. A true and correct copy of the registration for the Work is attached hereto as Exhibit A and incorporated herein by reference. A side-by-side comparison of the Work and the corresponding Infringing Material is attached hereto as Exhibit B and incorporated herein by reference.

Defendants's Wrongful and Infringing Activities

13. Particularly in light of the success of 45 Riots, 45 Riots has become a target for unscrupulous individuals and entities who wish to capitalize on the goodwill, reputation and fame 45 Riots has amassed in its business.

14. Defendants offers services similar to 45 Riots, namely theatrical entertainment production, live band performances, DJ's, and visual effects for social, corporate, and nightlife events "TCE's Services").

15. Upon information and belief, defendant Curtis is the founder of TCE.

16. Upon information and belief, defendant Curtis is the moving, active, conscious force behind TCE's infringement, and is jointly and severally liable for any damages awarded against TCE.

17. On April 21, 2015, defendant Curtis, as an individual, secured the domain name www.troycurtisent.com, and has owned it as an individual since then. (Attached hereto as Exhibit C is a screenshot of https://whois.icann.org/en/lookup?name=www.troycurtisent.com).

18. Upon information and belief, due to his prior commercial successes, defendant Curtis is a sophisticated individual who deals with musicians in his day-to-day business and understands the importance of copyright, and protections associated with copyrights.

19. In or about October, 2016, 45 Riots was contacted by Catherine Stein ("Ms. Stein") to organize a live musical performance at her wedding.

20. Shortly thereafter, 45 Riots learned that Curtis offered TCE's services to Ms. Stein by: copying 45 Riots's Work, advertising, marketing, promoting, distributing, and displaying TCE's Services using promotional material (the "Infringing Material") incorporating verbatim the Work.

21. Upon information and belief, Defendants intentionally and knowingly used Plaintiff's copyrights in order to promote its own business, and to compete with Plaintiff.

22. Upon information and belief, the Defendants intentionally, unlawfully, and improperly interfered with Plaintiff's existing and contractual relations with 45 Riots's clients, including Ms. Stein.

23. Upon information and belief, because of the confusion and distrust caused by Defendants' use of the Infringing Material, Ms. Stein terminated the relationship with Plaintiff shortly thereafter.

24. It is needless to say that reputation and word-of-mouth buzz is essential in the entertainment industry.

25. On or about October 25, 2016, 45 Riots informed its counsel that Defendants was offering TCE's Services using the Infringing Material.

26. Neither Plaintiff nor any of Plaintiff's authorized agents have consented to Defendants' use of the Work nor have they ever authorized Defendants to manufacture or import any of the products incorporating the Work.

27. Upon information and belief, prior to and contemporaneous with its unlawful actions alleged herein, Defendants had knowledge of Plaintiff's ownership of the Work, and in bad faith adopted Plaintiff's Work.

28. On or about October 26, 2016, Plaintiff through its counsel sent a cease and desist letter to Defendants asking it to cease any further infringement of its Work. A true and correct copy of the cease and desist letter is attached hereto as Exhibit D and incorporated herein by reference.

29. Plaintiff has suffered damages and continues to suffer damages in an amount to be determined at trial.

30. Plaintiff has demanded that Defendants compensate Plaintiff for the aforesaid wrongful and unlawful conduct.

31. However, Plaintiff has not received the compensation owed, which has necessitated the instant action.

As and for A First Cause of Action By Plaintiff against Defendants
(Federal Copyright Infringement)

25. Plaintiff repeats and realleges all prior allegations, as if fully set forth herein.

26. Plaintiff is owner of the Work.

27. Defendants have notice of Plaintiff's rights in and to the Work.

28. Defendants did not attempt and failed to obtain Plaintiff's consent or authorization to use, manufacture, reproduce, copy, display, prepare derivative works of, distribute, sell, transfer, rent, perform, and market Plaintiff's Work.

29. Without permission, Defendants knowingly and intentionally reproduced, copied, and displayed Plaintiff's Work by advertising, marketing, promoting, distributing, displaying, retailing, and offering TCE's Services using promotional material that incorporates the Infringing Material that is substantially similar to, if not a direct copy of Plaintiff's Work.

30. Defendants' unlawful and willful actions as alleged herein, constitute infringement of Plaintiff's Work, including Plaintiff's rights to reproduce, distribute, and sell such Work in violation of 17 U.S.C. § 501(a).

31. Defendants' knowing and intentional copyright infringement as alleged herein is causing immediate and irreparable harm and injury to Plaintiff, and to its goodwill and reputation, and will continue to substantially damage Plaintiff unless enjoined by this Court. Plaintiff has no adequate remedy at law.

32. Plaintiff is entitled to judgment against Defendants on the First Cause of Action granting among other relief, injunctive relief and an award of actual damages, Defendants'

profits in an amount to be proven at trial, enhanced damages and profits, or in alternative statutory damages for willful copyright infringement of up to $150,000.00 per infringement, and reasonable attorney's fees and costs together with prejudgment and post-judgment interest.

As and for A Second Cause of Action by Plaintiff Against Defendants
(Unfair Business Practices under N.Y. GEN. BUS. Law §349)

33. Plaintiff repeats and realleges all prior allegations, as if fully set forth herein.

34. Through Defendants' unlawful, unauthorized, and unlicensed use of Plaintiff's Work in connection with advertising, marketing, promoting, distributing, displaying, and offering of TCE's Services by using promotional material that incorporates the Infringing Material that is substantially similar to, if not a direct copy of Plaintiff's Work, Defendants have engaged in consumer-oriented conduct that has adversely affected the public interest and has resulted in injury to consumers.

35. Defendants' aforementioned conduct was and is willful and deliberate attempt to mislead consumers and constitutes the use of deceptive acts and practices in the conduct of business, trade, and commerce. Such conduct has deceived and materially mislead, or has a tendency to deceive and materially mislead the consuming public and has injured, and will continue to injure Plaintiff's business, reputation and goodwill in violation of N.Y. Gen. Bus. Law. §349 *et seq*.

36. Plaintiff has been damaged by Defendants' acts complained of in an amount to be determined at trial, and if Defendants' conduct is allowed to continue, Plaintiff and its goodwill and reputation will continue to suffer immediate, substantial, and irreparable injury that cannot be adequately calculated and compensated in monetary damages.

37. Plaintiff is entitled to judgment against Defendants on the Second Cause of Action, granting monetary damages in an amount to be proven at trial and injunctive relief prohibiting Defendants from using the Infringing Material or any other material substantially similar to Plaintiff's Work. Without preliminary and permanent injunctive relief, Plaintiff has no means by which to control the continuing injury to the reputation and goodwill associated with the Work. No amount of money damages can adequately compensate Plaintiff if it suffers damage to its reputation and associated goodwill through the false and unauthorized use by Defendants of the identical promotional material to the Work.

As and for A Third Cause of Action by Plaintiff Against Defendants
(Injury To Business Reputation And Unfair Competition Under N.Y. GEN. BUS. §360-L)

38. Plaintiff repeats and realleges all prior allegations, as if fully set forth herein.

39. Without authorization of Plaintiff, Defendants have used Plaintiff's Work in connection with the advertising, marketing, promoting, distributing, displaying, retailing, and offering of TCE's Services by using the promotional material that incorporates the Infringing Material that is substantially similar to, if not a direct copy of, Plaintiff's Work causing confusion, mistake, and deceiving consumers and the public as to the source, origin, sponsorship, and quality of TCE's Services.

40. Defendants' aforementioned willful and intentional conduct constitutes false advertising in the conduct of any business, trade, and commerce, and has injured, and will continue to injure Plaintiff's business reputation and goodwill in violation of N.Y. Gen. Bus. Law. §360-l.

41. As a result of Defendants' actions alleged herein, Plaintiff has suffered and will continue to suffer irreparable harm for which Plaintiff has no adequate remedy at law.

42. Plaintiff is entitled to judgment against Defendants on the Third Cause of Action Pursuant to N.Y. Gen. Bus. Law. § 350(e), granting injunctive relief prohibiting Defendants' unlawful conduct and monetary damages in an amount to be proven at trial, costs, disbursements and attorney's fees together with prejudgment and post-judgment interest.

As and for A Fourth Cause of Action by Plaintiff Against Defendantss
(Common Law Unfair Competition)

43. Plaintiff repeats and realleges all prior allegations, as if fully set forth herein.

44. By advertising, marketing, promoting, distributing, displaying, and offering its services by using the Infringing Material, Defendants has traded off the extensive good will of Plaintiff and the Work to induce and did induce and will continue to induce customers to purchase TCE's Services, thereby directly competing with Plaintiff. Such conduct has permitted and will continue to permit Defendants to make substantial sales and profits based on the goodwill and reputation of Plaintiff, which it has amassed through its nationwide marketing, advertising, sales, and consumer recognition.

45. Defendants' advertising, marketing, promoting, distributing, displaying, and offering its services by using the Infringing Material was and is in violation and derogation of Plaintiff's rights and is likely to cause confusion, cause mistake, and to deceive consumers and the public as to the source, origin, sponsorship, or quality of TCE's Services.

46. Defendants knew, or by the exercise of reasonable care should have known, that their advertising, marketing, promoting, distributing, displaying, and offering its services by using the Infringing Material, and their continuing advertising, marketing, promoting, distributing, displaying, offering its services by using the Infringing Material would cause confusion, cause mistake or deceive purchasers, users and the public.

47. Upon information and belief, Defendants' aforementioned wrongful actions have been knowing, deliberate, willful, intended to cause confusion, to cause mistake and to deceive, in blatant disregard of Plaintiff's rights, and for the wrongful purpose of injuring Plaintiff and its competitive position while benefiting Defendants.

48. As a direct and proximate result of Defendants' aforementioned wrongful actions, Plaintiff has been, and will continue to be, deprived of substantial sales of their services in an amount as yet unknown but to be determined at trial, and have been, and will continue to be deprived of the value of the Work as commercial assets, in an amount as yet unknown but to be determined at trial.

49. Plaintiff has no adequate remedy at law for Defendants' continuing violation of its rights set forth above. Plaintiff seeks injunctive relief, an order granting Plaintiff's damages, and Defendants' profits stemming from their infringing activities, and exemplary or punitive damages for Defendants' intentional misconduct.

50. Plaintiff is entitled to judgment against Defendants on the Fourth Cause of Action granting among other relief, injunctive relief, and an award of actual damages, Defendants' profits, enhanced damages and profits, if applicable, reasonable attorney's fees, if applicable, and costs of the Action together with prejudgment and post-judgment interest.

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

1. Defendants be held to have infringed the copyright in the Work;

2. Defendants be held to have willfully infringed the Copyright;

3. Defendants have violated N.Y. GEN. BUS. §360-L, and N.Y. GEN. BUS. LAW §349, and committed common law unfair competition.

4. Immediately and permanently enjoining and restraining Defendants, its officers, agents, servants, employees, and those in active concert or participation with them or any of them, from any further copyright infringement of the Work; and

5. Immediately and permanently enjoining and restraining Defendants from any future unauthorized use of the Work, or material substantially similar to the Work; and

6. Awarding Plaintiff damages, including without limitation statutory damages, compensatory damages, and/or punitive damages for the infringement of the copyright in an amount presently unknown but to be determined at trial; and

7. Requiring Defendants to account to 45 Riots for any and all profits derived by them through activities which infringe the copyright; and

8. Requiring Defendants to disgorge any fees, profits, or money to Plaintiff by which it has been unjustly enriched; and

9. Granting Plaintiff its costs and disbursements of this Action, including reasonable attorney's fees; and

10. Awarding Plaintiff pre-judgment and post-judgment interest on each and every damage award, including on reasonable attorney's fees; and

11. Granting such other, further, or different relief as the Court deems just and proper.

12. Awarding Plaintiff punitive and exemplary damages as the court finds appropriate to deter any future willful infringement.

13. Awarding such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

14. Plaintiff, requests a trial by jury in the above captioned matter, as provided by Rule 38 of the Federal Rules of Civil Procedure.

Dated: April 27, 2017

New York, New York

Respectfully submitted,

/s/ William R. Samuels

William R. Samuels
W.R. Samuels Law PLLC
280 Madison Avenue, Suite 600
New York, New York 10016
Attorney for Plaintiff
45 Riots, Inc.